

HOUSE BILL 1921

By Rinks

AN ACT relative to titling of watercraft.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. This act shall be known and may be cited as the "Watercraft Titling Act of 2007".

SECTION 2. As used in this act, unless the context clearly requires a different meaning:

- (1) "Agency" means the Tennessee wildlife resources agency;
- (2) "Certificate of documentation" means a certificate issued by the United States Coast Guard for a vessel documented under 46 U.S.C. chapter 121;
- (3) "Certificate of Origin" means a document establishing the initial chain of ownership, such as a manufacturer's certificate of origin (MCO) or statement of origin (MSO), an importer's certificate of origin (ICO) or statement of origin (ISO), or a builder's certification under 46 CFR Part 67 provided by the manufacturer of a new vessel or its distributor, that is the only valid indication of ownership between the manufacturer, its distributor, its franchised new vessel dealers and the original purchaser;
- (4) "Dealer" means any person who engages wholly or in part in the business of buying, selling or exchanging new watercraft or used watercraft, or both, has a tax certificate from the Tennessee department of revenue, has a business license from the applicable local governmental entity, has an established place of business specifically for the sale, trade and display of such watercraft and sells or exchanges more than five (5) watercraft in a year;
- (5) "Department" means the department of revenue;
- (6) "Established place of business" means a definite place of business with telephone service and a sign identifying that such business offers watercraft for sale or

trade. Such sign shall be in a conspicuous place on the premises at or near the outside entrance to the business, unless a conflict with local ordinances exists;

(7) "Issuing authority" means the Tennessee wildlife resources agency and its duly authorized representatives;

(8) "Lienholder" means a person holding a security interest;

(9) "Manufacturer" means any person engaged in the business of manufacturing or importing new watercraft for the purpose of sale or trade;

(10) "Owner" means a person, other than a lienholder, having an interest in or title to a watercraft. The term includes a person entitled to the use or possession of a watercraft, subject to an interest in another person, reserved or created by agreement and securing payment or performance of an obligation, but the term excludes a lessee under a lease not intended as security or a vendor under a conditional sales contract;

(11) "Person" means an individual, partnership, firm, corporation, association, or other entity;

(12) "Security interest" means an interest which is reserved or created by an agreement and which secures payment or performance of an obligation and is valid against third parties generally; and

(13) "Watercraft" means all watercraft on the waters of Tennessee that are subject to registration.

SECTION 3.

(a) Every owner of watercraft principally used in this state and required to be registered shall make application for a certificate of title for such watercraft to the county clerk of the county of residence of the owner or the county where the watercraft was purchased. If the owner of a watercraft principally used in this state is not a resident of this state application for a certificate of title shall be made to any county clerk in

Tennessee. Application for title to a watercraft shall be made upon the sale of a watercraft, when a security interest in a watercraft is given or renewed, and when ownership of a watercraft is transferred to any person other than the spouse of the owner.

(b) Any watercraft which has been issued a current and valid marine document issued by the United States Coast Guard or any federal agency which is a successor thereto, shall not be required to make an application for title. Owners of such vessels shall be subject to the provisions of Sections 17, 18, and 19 of this act.

(c) A county clerk shall not issue a certificate of title for a watercraft to a dealer unless a dealer provides a taxpayer identification number from the department of revenue and a business license issued by the applicable local governmental entity.

(d) An owner of a watercraft with a valid certificate issued by the issuing authority shall not be required to file an application for a certificate of title for the watercraft unless the person is transferring any interest in the watercraft or renewing the certificate for the watercraft. An owner of watercraft with a valid certificate of documentation issued by the United States Coast Guard shall not be issued a certificate of title.

SECTION 4.

(a) Except as provided in subsection (b) of Section 3, beginning July 1, 2008, no person shall sell or otherwise dispose of a watercraft without delivering to the purchaser or transferee a certificate of title with such assignment as is necessary to show title in the purchaser or transferee; nor shall any person purchase or otherwise acquire a watercraft without applying for a certificate of title for it in such person's name within fifteen (15) days of the receipt of such watercraft.

(b) By July 1, 2011, all watercraft in this state shall be required to be titled pursuant to the provisions of this act.

(c) A watercraft that has not been titled before the effective date of this act and that does not have a valid hull identification number (HIN) may be titled based upon an affidavit by the owner of the watercraft that such watercraft rightfully belongs to such owner and that the watercraft has not been titled previously in this or any other state.

(d) Titles to all watercraft that are based upon an affidavit of ownership shall have noted on the title that it is based on affidavit of ownership and that no other indicia of ownership were presented or accepted.

SECTION 5.

(a) After the effective date of this act, no person receiving a watercraft from any other person shall acquire any right, title, claim or interest in or to such watercraft until such person has applied for a certificate of title to such watercraft or receives a manufacturer's or importer's certificate of origin for it; nor shall any waiver or estoppel operate in favor of such person against a person having possession of such certificate of title, or manufacturer's or importer's certificate for such watercraft for a valuable consideration.

(b) No court shall recognize the right, title, claim or interest of any person in or to any watercraft sold, disposed of, or encumbered, unless evidenced by:

(1) A certificate of title, a manufacturer's statement of origin or importer's certificate; or

(2) Admission in the pleadings or by stipulation of the parties.

SECTION 6.

(a) Every owner of a watercraft subject to titling under this act shall make application to the county clerk of the county of residence of the owner or the county where the watercraft was purchased for issuance of a certificate of title for such watercraft. If the owner of a watercraft principally used in this state is not a resident of

this state application for a certificate of title shall be made to any county clerk of the county where the watercraft is principally used. Such application for title shall be upon the appropriate form prescribed and furnished by the agency and accompanied by a fee set by the issuing authority. Every application for a certificate of title shall contain:

(1) The name, residence and mailing address of the owner;

(2) A description of the watercraft including the manufacturer's name, make, model, year, color, length, hull material, propulsion type, Tennessee registration number, and the manufacturer's hull identification number as provided in Section 16;

(3) The date of purchase by the applicant, the name and address of the person from whom the watercraft was acquired, and the names and addresses of any persons having any security interest in the watercraft in the order of their priority; and

(4) Evidence that a sales or use tax at the rate specified in title 67, chapter 6, part 2, and § 67-6-501 has been paid on the sales price of such watercraft, unless the applicant shows proof that the watercraft is exempt from applicable sales or use tax.

(b) When the transferee of a watercraft is a dealer who holds the same for resale, such transferee shall not be required to obtain a new registration for the watercraft or be required to obtain a new certificate of title, but such transferee, upon transferring title or interest to another person, shall execute an assignment and warranty of title upon the certificate of title, if in such transferee's possession or if in the possession of lienor, the transferee shall execute a bill of sale and deliver the same to the person to whom such transfer is made, together with evidence of ownership. The application must be signed by the owner, and the dealer shall, within thirty (30) business days, mail or deliver the

application to the issuing authority. The transferee may execute a power of attorney to a dealer for the application for title and registration. Dealers shall maintain records of such transactions for not less than three (3) years from the date of such transactions.

Records of such transactions shall be available for inspection by the state of Tennessee.

(c)

(1) A security interest is perfected by delivery to the county clerk of the existing certificate of title, if any, and an application for a certificate of title containing the name and address of the holder of a security interest and a fee of six dollars fifty cents (\$6.50).

(2) The security interest is perfected as of the time of its creation if the delivery is completed within twenty (20) days thereafter, otherwise as of the date of the delivery to the county clerk.

(3) When the security interest is perfected as provided for in this subsection, it shall constitute notice to the world of the security interest or lien of the holder.

(d) If a dealer buys or acquires a used watercraft for the purpose of resale, and such watercraft is already covered by a certificate of title which is surrendered to the dealer by the owner or the lienholder at the time of delivery of the watercraft, the dealer need not send the certificate to the issuing authority at such time. Upon transferring the watercraft to another person other than by creation of a security interest, the owner shall within fifteen (15) business days execute the assignment and warrant of title by a dealer, showing the names and addresses of the transferee and of any lienholder and the date of the lienholder's security agreement, in the spaces provided therefore on the certificate or as the issuing authority prescribes, and mail or deliver the certificate to the issuing authority with the transferee's application for a new certificate.

(e) In the event an application for certificate of title is made for a watercraft last previously registered in another state or a country other than the United States, the application shall contain or be accompanied by:

(1) A certificate of title issued by such other state or country other than the United States;

(2) Any other information or documents the issuing authority reasonably requires to establish the ownership of the watercraft and the existence or non-existence of security interests in it; or

(3) In the event the state or country other than the United States in which the watercraft was last previously registered does not issue certificates of title, a proper bill of sale or sworn statement of ownership, or any evidence of ownership as may be required by the law of the state or country other than the United States from which the watercraft was brought, plus any other information or documents the issuing authority reasonably requires to establish the ownership of the watercraft and the existence or non-existence of security interests in it.

(f) The county clerk of the county wherein a watercraft is to be registered shall act as the agent of the issuing authority in receiving the application for certificate of title pursuant to the provisions of this section. By receiving such application, the transfer of title and any liens noted thereon shall be deemed perfected, subject only to action of the issuing authority in declining for good cause shown to issue such title or to note such lien thereon.

SECTION 7.

(a) Any abandoned, salvaged or rebuilt watercraft shall be taken to the Tennessee wildlife resources agency for issuance of a certificate attesting that such watercraft has been damaged or abandoned.. Such certificate shall be accepted by a

county clerk as evidence of ownership of such watercraft. For the purposes of this act, an abandoned watercraft means a watercraft that:

(1) Is over four (4) years old and is left unattended on public property for more than ten (10) days;

(2) Is in an obvious state of disrepair and is left unattended on public property for more than three (3) days; or

(3) Has remained on private property without the consent of the owner or person in control of the property for more than three (3) days.

(b) The Tennessee wildlife resources agency may take into custody any watercraft found abandoned on public or private property. In such connection, the agency may employ its own personnel, equipment and facilities or hire persons, equipment, and facilities for the purpose of removing, preserving and storing abandoned watercraft.

(c) Upon the agency taking in an abandoned watercraft it shall notify within fifteen (15) days thereof, by registered mail, return receipt requested, the last known registered owner of the watercraft and all lienholders of record that the watercraft has been taken into custody. The notice shall describe the year, make, model and hull identification number of the abandoned watercraft; set forth the location of the facility where the watercraft is being held; inform the owner and any lienholders of their right to reclaim the watercraft within ten (10) days after the date of the notice, upon payment of all towing, preservation and storage charges resulting from placing the watercraft in custody; and state that the failure of the owner or lienholders to exercise their right to reclaim the watercraft within the time provided shall be deemed a waiver by the owner and all lienholders of all right, title and interest in the watercraft and consent to the sale of the abandoned, immobile, or unattended watercraft at a public auction.

(d) The agency is not required to comply with the requirements of subsection (c) if it provides pre-seizure notice to the owner of the watercraft and all lienholders of record that the watercraft has been found to be abandoned, immobile, or unattended. Any pre-seizure notice shall be sent by registered or certified mail, return receipt requested, to the last known address of the owner of record and to all lienholders of record. The notice shall be written in plain language and shall contain the year, make, model and watercraft identification number of the watercraft, if ascertainable, the location of the watercraft, and a statement advising the owner that the owner has ten (10) days to appeal the determination by the agency that the watercraft is abandoned or to remove the watercraft from the property, or the agency shall take the abandoned watercraft into custody. The notice shall further inform the owner and any lienholders of their right to reclaim the watercraft after it is taken into custody but before it is sold or demolished, upon payment of all towing, preservation, storage or any other charges resulting from placing the watercraft in custody, and state that the failure of the owner or lienholders to exercise their right to reclaim the watercraft shall be deemed a waiver by the owner and all lienholders of all right, title and interest in the watercraft and consent to the demolition of the watercraft or its sale at a public auction. If the owner or lienholder cannot be located through the exercise of due diligence, notice by publication shall be given as set out in subsection (c). If the owner or lienholder of an abandoned watercraft fails to appeal the determination that the watercraft is abandoned or fails to remove the watercraft within the time allowed for an appeal, the agency may take the watercraft into custody. If an appeal is made, the watercraft shall not be taken into custody while the appeal is pending. Failure to appeal within the specific time period shall, without exception, constitute waiver of the right of appeal.

(e) In the event there is no response to the notice by registered mail provided for in subsection (c), then there shall be notice by one (1) publication in one (1) newspaper of general circulation in the area where the watercraft was abandoned. Such notice shall be in a small display ad format, but one (1) advertisement may contain multiple listings of abandoned watercraft.

(f) The consequences and effect of failure to reclaim an abandoned watercraft shall be as set forth in a valid notice given pursuant to this section.

SECTION 8.

(a) The county clerk shall transmit to the issuing authority each application for certificate of title which is received with the appropriate fee and complies in all other respects with this act. When satisfied that the application is genuine and regular, that the applicant is the owner of the watercraft, and that there are no security interests in the watercraft not disclosed in the application, the issuing authority shall issue a certificate of title to the watercraft.

(b) The issuing authority shall maintain a record of all certificates of title issued by it:

(1) Under a distinctive title number assigned to a watercraft;

(2) Under the identification number awarded to a watercraft in accordance with the registration and numbering act of the state in which it is registered;

(3) Alphabetically, under the name of the owner; and

(4) In the discretion of the issuing authority, in any other method it determines to be appropriate.

(c) All records of the issuing authority relating to the titling of watercraft shall be public records open to public inspection during regular office hours.

SECTION 9.

(a) Each certificate of title issued by the agency shall contain:

(1) The date issued;

(2) The name and resident address of the owner;

(3) The names and addresses of any lienholders in the order of priority as shown on the application; unless the application is based on a certificate of title, then as shown on the certificate;

(4) The title number assigned to the watercraft;

(5) A description of the watercraft including the manufacturer's name, make, model, year, color, length, hull material, propulsion type, Tennessee registration number, and the manufacturer's hull identification number;

(6) Spaces for assignment of title by the owner or by the dealer and for warranting that the signer is the owner and that there are no mortgages, liens or encumbrances on the watercraft except as are noted on the certificate of title. Spaces shall also be provided on certificate for application for title by a new owner subject to the security interests of any lienholders as are named and for the assignment or release of the security interest of a lienholder; and

(7) Whether such watercraft has been abandoned, reconstructed, salvaged, or deemed a total loss by an insurer.

(b) A certificate of title issued by the agency is prima facie evidence of the facts appearing on it.

SECTION 10. The original certificate of title shall be mailed to the first lienholder named in it or, if no lienholder is named, to the owner named in the certificate.

SECTION 11.

(a) No dealer shall purchase or acquire a new watercraft without obtaining from the seller a manufacturer's or importer's certificate of origin.

(b) No manufacturer, importer, dealer, or other person shall sell or otherwise dispose of a new watercraft to a dealer for purposes of display and resale, without delivering to such dealer a manufacturer's or importer's certificate of origin.

(c) The manufacturer's or importer's certificate of origin shall contain:

(1) A description of the watercraft, including its trade name, if any, manufacturer's name, year, series or model, hull material, propulsion type, and manufacturer's hull identification number;

(2) Certification of date of transfer of watercraft and name and address of transferee;

(3) Certification that this was a transfer of watercraft in ordinary trade and commerce;

(4) Signature and address of a representative of the transferor; and

(5) On the manufacturer's or importer's certificate there shall appear an assignment form, including the name and address of the transferee, a certification that the watercraft is new, and a warranty that the title at the time of delivery is subject only to such liens as are set forth in the assignment.

SECTION 12.

(a) The owner at the time of delivery of the watercraft shall execute the assignment and warranty of title to the transferee in the space provided on the certificate of title.

(b) A transferee or purchaser, whether by operation of law or otherwise, shall obtain a new certificate of title by application to the agency through the county clerk accompanied by the required fee and upon the form or forms prescribed and furnished

by the issuing authority. The application for certificate of title shall be filed within fifteen (15) business days after the delivery of the watercraft.

(c) The certificate of title shall be delivered to the owner in the event no security interest appears thereon. Otherwise the certificate of title shall be delivered to the person holding the first security interest upon the watercraft as shown in the certificate and shall be retained by the holder of the first security interest until the security interest shall be discharged, at which time a notation shall be made on the certificate of title, setting forth the fact that the security interest has been discharged, which shall be signed by the lienholder. The lienholder shall then deliver the certificate of title to the owner, unless the certificate of title shall show on its face one (1) or more security interests still outstanding, in which event the certificate of title shall be delivered to the next prior lienholder, either in person or by registered mail, and the lienholder shall within seventy-two (72) hours notify by mail the issuing authority of the discharge of such security interest.

(d) In the event any security interest which is subordinate to any other outstanding security interest is discharged or released, the holder of the subordinate security interest shall immediately procure the certificate of title from the lienholder in whose possession it is being held for the sole purpose of discharging the security interest as provided by subsection (c), and thereupon shall return the certificate of title to the person from whom it was obtained, notifying the issuing authority of the discharge of such security interest, or, in the alternative, the subordinate lienholder may immediately forward to the issuing authority a release setting forth the fact that the security interest has been discharged, which shall be signed by the lienholder, and the agency shall note the release of security interest upon the certificate of title when the certificate of title is next in the physical possession of the issuing authority.

SECTION 13.

(a) If the ownership of a watercraft is terminated in accordance with the terms of a security agreement by a lienholder named in the certificate of title, the lienholder shall promptly mail or deliver to the county clerk the last certificate of title, an application for a new title accompanied by the required fee and an affidavit by the lienholder or an authorized representative, setting forth the facts entitling the lienholder to possession and ownership of the watercraft, together with a copy of the journal entry, court order, or instrument upon which such claim of possession and ownership is founded. If the lienholder cannot produce such proof of ownership, the lienholder may submit to the issuing authority such evidence available with the application, and the issuing authority may, if it finds the evidence to be satisfactory proof of ownership, issue a new certificate of title.

(b) If a lienholder succeeds to the interest of an owner in a watercraft by operation of law and holds such watercraft for resale, the lienholder need not secure a new certificate of title thereto but, upon transfer to another person, shall within fifteen (15) days mail or deliver to the transferee or to the agency the certificate, affidavit and such other documents as the agency may require.

SECTION 14.

(a) All liens, mortgages and encumbrances noted upon a certificate of title take priority according to the order of time in which they are noted thereon by the issuing authority. All such liens, mortgages and encumbrances shall be valid against the creditors of the owner of a watercraft, and against subsequent purchasers of any such watercraft, or against holders of subsequent liens, mortgages, or encumbrances upon such watercraft.

(b) When a lien is discharged, the lienholder shall note that fact on the certificate of title over the lienholder's signature and shall deliver such certificate of title to the owner. Before delivering such certificate to the owner, the lienholder shall notify the agency of the discharge of lien in a manner prescribed by the agency. The lienholder shall deliver the certificate of title to the owner within seventy-two (72) hours of such discharge.

SECTION 15.

(a) If a certificate of title is lost, stolen, mutilated, destroyed, or becomes illegible, the first lienholder or, if there is not a lienholder, the owner or legal representative of the owner named in the certificate, as shown by the records of the issuing authority, may obtain a replacement title by applying to the agency or county clerk, furnishing the prescribed fee and such information concerning the original certificate and the circumstances of its loss, mutilation or destruction as required by the issuing authority.

(b) In the event a lost or stolen original certificate of title for which a replacement title was issued is recovered, the replacement title shall be surrendered for cancellation as required by the issuing authority.

SECTION 16. When a watercraft with a certificate of title is scrapped, dismantled, destroyed, or is changed in such manner that it loses its character as a watercraft, or is changed in such manner that it is not the watercraft described in the certificate of title, whoever is named as owner in the last certificate of title shall within seventy-two (72) hours cause the certificate to be mailed or delivered to the agency. The agency shall, with the consent of any lienholders noted on the certificate, cancel the certificate.

SECTION 17.

(a) If a watercraft contains a permanent identification number placed thereon by the manufacturer, the manufacturer's hull identification number shall be used as the

builder's hull number. If there is no manufacturer's hull identification number, or if the manufacturer's hull identification number has been removed or obliterated, or if the watercraft is homemade, the agency may, upon a prescribed application, assign a permanent hull identification number which shall be used as the builder's hull number for such watercraft, and this assigned number shall be permanently affixed to or imprinted on the watercraft in a manner prescribed by the agency.

(b) No newly manufactured watercraft may be sold or offered for sale by any person in this state after the effective date of this act unless such watercraft has a hull identification number regardless of whether assigned by the manufacturer or by the agency.

(c) No watercraft may be registered or titled in this state after the effective date of this act unless such watercraft has a hull identification number assigned by the manufacturer or by the agency.

(d) Hull identification numbers shall conform to the format and locations prescribed by the United States Coast Guard and all applicable federal laws.

(e) No person, firm, association or corporation shall destroy, remove, alter, cover or deface the manufacturer's hull identification number, or plate bearing such number, or any such number assigned by the agency, on any watercraft.

SECTION 18.

(a) Every law enforcement officer of Tennessee having knowledge of a stolen watercraft shall immediately furnish the issuing authority with full information concerning such theft.

(b) The issuing authority, whenever it receives a report of the theft of a watercraft, shall make a distinctive record thereof, including the make of the stolen watercraft and its manufacturer's or assigned hull identification number, and shall file the

same in the numerical order of the manufacturer's or assigned hull identification number with the index records of the watercraft of such make. The issuing authority shall prepare a report listing watercraft stolen and recovered as disclosed by the reports submitted to it, to be distributed as it deems advisable.

(c) In the event of the recovery of a stolen watercraft, the owner or recovering entity shall immediately notify the agency, which shall remove the record of the theft from its files.

SECTION 19. The following are offenses relating to titling:

(1)

(A) The operation or mooring in this state of a watercraft for which a certificate of title is required, without having such certificate of title.

(B) The operation or mooring in this state of a watercraft for which a certificate of title is required, and such certificate of title has been canceled.

(C) No person shall sell, transfer or otherwise dispose of watercraft without delivering to the purchaser or transferee a certificate of title, or a manufacturer's or importer's certificate, assigned to such purchaser or transferee as required by this act.

(D) No person shall fail to surrender to the agency any certificate of title upon cancellation of the same by the agency for any valid reason set forth in this act or regulations adopted pursuant thereto.

(2) The offenses in subdivision (1) are punishable as a Class C misdemeanor.

SECTION 20.

(a) No person shall:

(1) Alter or falsify an assignment of a certificate of title that has been canceled; or

(2) Fail to surrender to the agency any certificate of title upon cancellation of the same by the agency for any valid reason set forth in this act or regulations adopted pursuant thereto.

(b) A violation of the provisions of (a) is punishable as a Class B misdemeanor.

SECTION 21.

(a) No person shall:

(1) Alter, forge or counterfeit any certificate of title or manufacturer's or importer's certificate to a watercraft;

(2) Alter or falsify an assignment of a certificate of title, or an assignment or cancellation of a security interest in a certificate of title to a watercraft;

(3) Hold or use a certificate of title to a watercraft nor hold or use any assignment or cancellation of a security interest on a certificate of title to a watercraft knowing it to have been altered, forged, counterfeited or falsified;

(4) Use a false or fictitious name or address, or make any material false statement, or conceal any material fact, in an application for a certificate of title, certificate of number, or in a bill of sale or sworn statement of ownership;

(5) Have possession of, buy, receive, sell or offer for sale, or otherwise dispose of a watercraft known to have been stolen; and no person shall procure or attempt to procure a certificate of title to a watercraft, or pass or attempt to pass a certificate of title or any assignment thereof to a watercraft knowing or having reason to believe that such watercraft has been stolen;

(6) Take possession of, buy, receive, sell or offer for sale, or otherwise dispose of in this state a watercraft on which the manufacturer's or assigned serial number or hull identification number has been destroyed, removed, covered, altered, or defaced, knowing of such destruction, removal, covering,

alteration, or defacement of such manufacturer's or assigned serial number or hull identification number; or

(7) Destroy, remove, cover, alter or deface the manufacturer's or assigned hull identification number on any watercraft for the purpose of selling or otherwise disposing of such watercraft.

(b) A violation of the provisions of this section is punishable as a Class A misdemeanor.

SECTION 22.

(a) The agency shall have the authority to suspend or revoke a certificate of title to a watercraft, upon reasonable notice and hearing, when authorized by any other provision of law and if:

(1) The certificate of title was fraudulently procured or erroneously issued;

or

(2) The watercraft has been scrapped, dismantled or destroyed.

(b) Suspension or revocation of a certificate of title does not, in itself, affect the validity of a security interest noted on it.

(c) When the agency suspends or revokes a certificate of title, the owner or person in possession of it shall, upon receiving notice of the suspension or revocation, mail or deliver the certificate to the agency.

(d) The agency may seize and impound any certificate of title which has been suspended and revoked pursuant to the provisions of subsection (a).

SECTION 23. The following fees shall be payable to the issuing authority:

(1) For issuing a certificate of title there shall be collected the sum of thirteen dollars fifty cents (\$13.50);

(2) For noting new liens or encumbrances not originally entered on a title and for transferring liens or encumbrances from one (1) lienor to the lienor's assignee upon a certificate of title when the transaction does not involve a change of ownership and where the certificate of title is forwarded to the issuing authority along with the application, the sum of ten dollars (\$10.00);

(3) For issuing a duplicate certificate of title to replace a lost or destroyed certificate, the sum of ten dollars (\$10.00); and

(4) For issuing a title with a new and distinguishing number for a watercraft where the manufacturer's hull identification number has been removed, destroyed or obliterated, the sum of thirteen dollars fifty cents (\$13.50). All such new titles shall be issued by the department.

SECTION 24.

(a) Whenever any application to the agency or any county clerk is accompanied by any fee as required by law, and the application is refused or rejected, the fee shall be returned to the applicant.

(b) Whenever the agency, or any county clerk of the state, through error, collects any fee not required to be paid hereunder, the same shall be refunded to the person paying the same upon application thereof made within six (6) months after the date of such payment.

(c) Whenever the agency shall decline to issue a certificate of title to any purchaser of a watercraft required to be registered, the applicant may, at any time within five (5) days from receipt of formal notice that the application for a certificate of title has been rejected, surrender the application for a certificate of title issued for the watercraft to the county clerk from whom it was purchased and be thereby entitled to an immediate refund of all the fees paid by such applicant for the titling of the watercraft.

SECTION 25.

(a) All fees collected by the issuing authority by the provisions of this act shall be allotted pursuant to the provisions of this act. Except as provided in subsection (b), all fees collected by the issuing authority shall be retained by the issuing authority for the implementation of the provisions of this act.

(b) All fees required to be paid to the clerks of the various counties of the state shall be retained by the clerk and handled in the same manner as all other fees collected by the clerk for such clerk's benefit.

SECTION 26.

(a) The county clerks shall, upon the performance of such duties as the registrar may prescribe governing the titling of watercraft and upon complying with the requirements of this act, be entitled to the following fees from applicants for the following services:

(1) For receiving and forwarding to the agency each application for a certificate of title, including all acknowledgments of signatures thereunder, the sum of six dollars fifty cents (\$6.50); and

(2) For issuing a duplicate certificate of title to replace a lost or destroyed certificate, the sum of three dollars fifty cents (\$3.50).

(b) Out of all the filing fees charged by court clerks pursuant to this act, two dollars (\$2.00) of the amount collected shall be earmarked for computer hardware purchases or replacement, but may be used for other usual and necessary computer related expenses at the discretion of the clerk. Such amount shall be preserved for these purposes and shall not revert to the general fund at the end of a budget year if unexpended.

SECTION 27. No fee, charge, or other cost shall be charged or assessed against any person who acquires title to a watercraft as a result of the death of the spouse of such person, if an application to transfer ownership and registration is made within one (1) year from the date of the spouse's death.

SECTION 28. Notwithstanding any provision of this act to the contrary, if other evidence satisfactory to the clerk is not available, a sworn affidavit by an applicant stating that the affiant is the true and correct owner shall be sufficient for the purpose of obtaining a certificate of title for a watercraft acquired prior to the effective date of this act.

SECTION 29. Pursuant to title 4, chapter 5, the agency is authorized to promulgate all rules and regulations necessary for the carrying out of the provisions of this act. In addition, the agency is authorized to promulgate rules and regulations pursuant to title 4, chapter 5, relative to contractual agreements with county clerks to allow county clerks to issue titles to watercraft.

SECTION 30. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable.

SECTION 31. For the purpose of promulgating rules and regulations, this act shall take effect upon becoming a law, the public welfare requiring it. For all other purposes, this act shall take effect July 1, 2008, the public welfare requiring it.